



General Assembly

January Session, 2005

Amendment

LCO No. 6773

HB0521506773HDO

Offered by:

REP. WALKER, 93rd Dist.

REP. KIRKLEY-BEY, 5th Dist.

REP. CANDELARIA, 95th Dist.

REP. MANTILLA, 4th Dist.

REP. MCCRORY, 7th Dist.

To: Subst. House Bill No. 5215

File No. 528

Cal. No. 387

"AN ACT CONCERNING COURT JURISDICTION IN JUVENILE MATTERS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 46b-120 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2005*):

5 The terms used in this chapter shall, in its interpretation and in the
6 interpretation of other statutes, be defined as follows: (1) "Child"
7 means any person under sixteen years of age and, for purposes of
8 delinquency matters, "child" means (A) (i) before October 1, 2007, any
9 person [(A)] under sixteen years of age, and (ii) on and after October 1,
10 2007, any person under seventeen years of age, or (B) [sixteen years of]
11 any person who has attained the applicable age specified in

12 subparagraph (A) of this subdivision or is older and who, prior to
13 attaining [sixteen years of] such applicable age, has violated any
14 federal or state law or municipal or local ordinance, other than a
15 violation of an ordinance regulating behavior of a child in a family
16 with service needs and, on and after October 1, 2007, other than a
17 violation by a licensed motor vehicle operator of a law or ordinance
18 concerning the operation of a motor vehicle that is an infraction or a
19 motor vehicle violation specified in subsection (b) of section 51-164n,
20 and, subsequent to attaining [sixteen years of] such applicable age,
21 violates any order of the Superior Court or any condition of probation
22 ordered by the Superior Court with respect to such delinquency
23 proceeding; (2) "youth" means (A) before October 1, 2007, any person
24 sixteen or seventeen years of age, and (B) on and after October 1, 2007,
25 any person seventeen years of age; (3) "youth in crisis" means any
26 youth who, within the last two years, (A) has without just cause run
27 away from the parental home or other properly authorized and lawful
28 place of abode, (B) is beyond the control of the youth's parents,
29 guardian or other custodian, or (C) has four unexcused absences from
30 school in any one month or ten unexcused absences in any school year;
31 (4) "abused" means that a child or youth (A) has been inflicted with
32 physical injury or injuries other than by accidental means, or (B) has
33 injuries that are at variance with the history given of them, or (C) is in
34 a condition that is the result of maltreatment such as, but not limited
35 to, malnutrition, sexual molestation or exploitation, deprivation of
36 necessities, emotional maltreatment or cruel punishment; (5) a child
37 may be found "mentally deficient" who, by reason of a deficiency of
38 intelligence that has existed from birth or from early age, requires, or
39 will require, for his protection or for the protection of others, special
40 care, supervision and control; (6) a child may be convicted as
41 "delinquent" who has violated (A) any federal or state law or
42 municipal or local ordinance, other than an ordinance regulating
43 behavior of a child in a family with service needs, (B) any order of the
44 Superior Court, or (C) conditions of probation as ordered by the court;
45 (7) a child or youth may be found "dependent" whose home is a
46 suitable one for the child or youth, save for the financial inability of the

47 child's or youth's parents, parent [,] or guardian, or other person
48 maintaining such home, to provide the specialized care the condition
49 of the child or youth requires; (8) "family with service needs" means a
50 family that includes a child who (A) has without just cause run away
51 from the parental home or other properly authorized and lawful place
52 of abode, (B) is beyond the control of the child's parent, parents,
53 guardian or other custodian, (C) has engaged in indecent or immoral
54 conduct, (D) is a truant or habitual truant or who, while in school, has
55 been continuously and overtly defiant of school rules and regulations,
56 or (E) is thirteen years of age or older and has engaged in sexual
57 intercourse with another person and such other person is thirteen
58 years of age or older and not more than two years older or younger
59 than such child; (9) a child or youth may be found "neglected" who (A)
60 has been abandoned, or (B) is being denied proper care and attention,
61 physically, educationally, emotionally or morally, or (C) is being
62 permitted to live under conditions, circumstances or associations
63 injurious to the well-being of the child or youth, or (D) has been
64 abused; (10) a child or youth may be found "uncared for" who is
65 homeless or whose home cannot provide the specialized care that the
66 physical, emotional or mental condition of the child requires. For the
67 purposes of this section, the treatment of any child by an accredited
68 Christian Science practitioner, in lieu of treatment by a licensed
69 practitioner of the healing arts, shall not of itself constitute neglect or
70 maltreatment; (11) "delinquent act" means (A) the violation of any
71 federal or state law or municipal or local ordinance, other than (i) the
72 violation of an ordinance regulating the behavior of a child in a family
73 with service needs, and (ii) on and after October 1, 2007, the violation
74 by a licensed motor vehicle operator of a law or ordinance concerning
75 the operation of a motor vehicle that is an infraction or a motor vehicle
76 violation specified in subsection (b) of section 51-164n, or (B) the
77 violation of any order of the Superior Court; (12) "serious juvenile
78 offense" means (A) the violation [by a child] of, including attempt or
79 conspiracy to violate, [sections] section 21a-277, 21a-278, 29-33, 29-34,
80 29-35, 53-21, 53-80a, 53-202b, 53-202c, 53-390 to 53-392, inclusive,
81 53a-54a to 53a-57, inclusive, 53a-59 to 53a-60c, inclusive, 53a-70 to

82 53a-71, inclusive, 53a-72b, 53a-86, 53a-92 to 53a-94a, inclusive, 53a-95,
83 53a-101, 53a-102a, 53a-103a [.] or 53a-111 to 53a-113, inclusive,
84 subdivision (1) of subsection (a) of section 53a-122, subdivision (3) of
85 subsection (a) of section 53a-123, section 53a-134, 53a-135, 53a-136a,
86 53a-166 [.] or 53a-167c, subsection (a) of section 53a-174, or section
87 53a-196a, 53a-211, 53a-212, 53a-216 or 53a-217b, by a child, or (B)
88 running away, without just cause, from any secure placement other
89 than home while referred as a delinquent child to the Court Support
90 Services Division or committed as a delinquent child to the
91 Commissioner of Children and Families for a serious juvenile offense;
92 (13) "serious juvenile offender" means any child convicted as
93 delinquent for commission of a serious juvenile offense; (14) "serious
94 juvenile repeat offender" means any child charged with the
95 commission of any felony if such child has previously been convicted
96 delinquent at any age for two violations of any provision of title 21a,
97 29, 53 or 53a that is designated as a felony; (15) "alcohol-dependent
98 child" means any child who has a psychoactive substance dependence
99 on alcohol as that condition is defined in the most recent edition of the
100 American Psychiatric Association's "Diagnostic and Statistical Manual
101 of Mental Disorders"; and (16) "drug-dependent child" means any
102 child who has a psychoactive substance dependence on drugs as that
103 condition is defined in the most recent edition of the American
104 Psychiatric Association's "Diagnostic and Statistical Manual of Mental
105 Disorders". No child shall be classified as drug dependent who is
106 dependent (A) upon a morphine-type substance as an incident to
107 current medical treatment of a demonstrable physical disorder other
108 than drug dependence, or (B) upon amphetamine-type, ataractic,
109 barbiturate-type, hallucinogenic or other stimulant and depressant
110 substances as an incident to current medical treatment of a
111 demonstrable physical or psychological disorder, or both, other than
112 drug dependence.

113 Sec. 2. Subsection (a) of section 46b-121 of the general statutes is
114 repealed and the following is substituted in lieu thereof (*Effective*
115 *October 1, 2005*):

116 (a) (1) Juvenile matters in the civil session include all proceedings
117 concerning uncared-for, neglected or dependent children and youth
118 within this state, termination of parental rights of children committed
119 to a state agency, matters concerning families with service needs,
120 contested matters involving termination of parental rights or removal
121 of guardian transferred from the Probate Court, the emancipation of
122 minors and youth in crisis, but does not include matters of
123 guardianship and adoption or matters affecting property rights of any
124 child, youth or youth in crisis over which the Probate Court has
125 jurisdiction, provided appeals from probate concerning adoption,
126 termination of parental rights and removal of a parent as guardian
127 shall be included.

128 (2) Juvenile matters in the criminal session include all proceedings
129 concerning delinquent children in the state and persons [sixteen years
130 of age and] who have attained the applicable age or are older and who
131 are under the supervision of a juvenile probation officer while on
132 probation or a suspended commitment to the Department of Children
133 and Families, for purposes of enforcing any court orders entered as
134 part of such probation or suspended commitment. For the purposes of
135 this subdivision, "applicable age" means (A) before October 1, 2007,
136 sixteen years of age, and (B) on and after October 1, 2007, seventeen
137 years of age.

138 Sec. 3. Subsection (c) of section 46b-127 of the general statutes is
139 repealed and the following is substituted in lieu thereof (*Effective*
140 *October 1, 2005*):

141 (c) Upon the effectuation of the transfer, such child shall stand trial
142 and be sentenced, if convicted, as if [he were sixteen years of] such
143 child had attained the applicable age. Such child shall receive credit
144 against any sentence imposed for time served in a juvenile facility
145 prior to the effectuation of the transfer. A child who has been
146 transferred may enter a guilty plea to a lesser offense if the court finds
147 that such plea is made knowingly and voluntarily. Any child
148 transferred to the regular criminal docket who pleads guilty to a lesser

149 offense shall not resume his status as a juvenile regarding [said] such
150 offense. If the action is dismissed or nolleed or if such child is found not
151 guilty of the charge for which he was transferred or of any lesser
152 included offenses, the child shall resume his status as a juvenile. [until
153 he attains the age of sixteen years.] For the purposes of this subsection,
154 "applicable age" means (1) before October 1, 2007, sixteen years of age,
155 and (2) on and after October 1, 2007, seventeen years of age.

156 Sec. 4. Subsection (f) of section 46b-133c of the general statutes is
157 repealed and the following is substituted in lieu thereof (*Effective*
158 *October 1, 2005*):

159 (f) Whenever a proceeding has been designated a serious juvenile
160 repeat offender prosecution pursuant to subsection (b) of this section
161 and the child does not waive his right to a trial by jury, the court shall
162 transfer the case from the docket for juvenile matters to the regular
163 criminal docket of the Superior Court. Upon transfer, such child shall
164 stand trial and be sentenced, if convicted, as if [he were sixteen years
165 of] such child had attained the applicable age, except that no such child
166 shall be placed in a correctional facility but shall be maintained in a
167 facility for children and youth until he attains [sixteen years of] the
168 applicable age or until he is sentenced, whichever occurs first. Such
169 child shall receive credit against any sentence imposed for time served
170 in a juvenile facility prior to the effectuation of the transfer. A child
171 who has been transferred may enter a guilty plea to a lesser offense if
172 the court finds that such plea is made knowingly and voluntarily. Any
173 child transferred to the regular criminal docket who pleads guilty to a
174 lesser offense shall not resume his status as a juvenile regarding [said]
175 such offense. If the action is dismissed or nolleed or if such child is
176 found not guilty of the charge for which he was transferred, the child
177 shall resume his status as a juvenile. [until he attains sixteen years of
178 age.] For the purposes of this subsection, "applicable age" means (1)
179 before October 1, 2007, sixteen years of age, and (2) on and after
180 October 1, 2007, seventeen years of age.

181 Sec. 5. Subsection (f) of section 46b-133d of the general statutes is

182 repealed and the following is substituted in lieu thereof (*Effective*
183 *October 1, 2005*):

184 (f) When a proceeding has been designated a serious sexual
185 offender prosecution pursuant to subsection (c) of this section and the
186 child does not waive the right to a trial by jury, the court shall transfer
187 the case from the docket for juvenile matters to the regular criminal
188 docket of the Superior Court. Upon transfer, such child shall stand trial
189 and be sentenced, if convicted, as if such child [were sixteen years of]
190 had attained the applicable age, except that no such child shall be
191 placed in a correctional facility but shall be maintained in a facility for
192 children and youth until such child attains [sixteen years of] the
193 applicable age or until such child is sentenced, whichever occurs first.
194 Such child shall receive credit against any sentence imposed for time
195 served in a juvenile facility prior to the effectuation of the transfer. A
196 child who has been transferred may enter a guilty plea to a lesser
197 offense if the court finds that such plea is made knowingly and
198 voluntarily. Any child transferred to the regular criminal docket who
199 pleads guilty to a lesser offense shall not resume such child's status as
200 a juvenile regarding such offense. If the action is dismissed or nolle or
201 if such child is found not guilty of the charge for which such child was
202 transferred, the child shall resume such child's status as a juvenile.
203 [until such child attains sixteen years of age.] For the purposes of this
204 subsection, "applicable age" means (1) before October 1, 2007, sixteen
205 years of age, and (2) on and after October 1, 2007, seventeen years of
206 age.

207 Sec. 6. Subsection (a) of section 46b-142 of the general statutes is
208 repealed and the following is substituted in lieu thereof (*Effective*
209 *October 1, 2005*):

210 (a) The Chief Court Administrator, in consultation with the judges
211 of the Superior Court, shall establish districts for the purpose of
212 establishing venue in juvenile matters. All petitions concerning
213 delinquent children shall be heard within the district where the
214 delinquency is alleged to have occurred or where the child resides, in

215 the discretion of the court, except that, subject to the requirements of
216 section 46b-122, on and after October 1, 2007, a delinquency matter
217 concerning a child who is sixteen years of age or older may be heard in
218 the court for the geographical area where such child resides or, if such
219 child is not a resident of this state, in the court for the geographical
220 area where the delinquency is alleged to have occurred. All other
221 petitions shall be heard within the district where the child or youth
222 resided at the time of the filing of the petition, but for the purposes of
223 this section any child or youth born in any hospital or institution
224 where the mother is confined at the time of birth shall be deemed to
225 have residence in the district wherein such child's or youth's mother
226 was living at the time of her admission to such hospital or institution.

227 Sec. 7. Section 54-76b of the general statutes is repealed and the
228 following is substituted in lieu thereof (*Effective October 1, 2005*):

229 (a) For the [purpose] purposes of sections 54-76b to 54-76n,
230 inclusive; [, "youth"]

231 (1) "Youth" means (A) before October 1, 2007, a minor who has
232 reached the age of sixteen years but has not reached the age of eighteen
233 years, and on and after October 1, 2007, a minor who (i) has reached
234 the age of sixteen years but has not reached the age of eighteen years
235 and is charged with a motor vehicle violation that is not subject to the
236 jurisdiction of the superior court for juvenile matters, or (ii) has
237 reached the age of seventeen years but has not reached the age of
238 eighteen years, or (B) a child who has been transferred to the regular
239 criminal docket pursuant to section 46b-127, as amended by this act. [;
240 and "youthful offender"]

241 (2) "Youthful offender" means a youth who [(1)] (A) is charged with
242 the commission of a crime which is not a class A felony or a violation
243 of subdivision (2) of subsection (a) of section 53-21 [,] or section 53a-70,
244 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, except a violation
245 involving consensual sexual intercourse or sexual contact between the
246 youth and another person who is thirteen years of age or older but

247 under sixteen years of age, [(2)] (B) has not previously been convicted
 248 of a felony or been previously adjudged a serious juvenile offender or
 249 serious juvenile repeat offender, as defined in section 46b-120, as
 250 amended by this act, or a youthful offender, or been afforded a pretrial
 251 program for accelerated rehabilitation under section 54-56e, and [(3)]
 252 (C) is adjudged a youthful offender pursuant to the provisions of [said
 253 sections] sections 54-76b to 54-76n, inclusive.

254 (b) The Interstate Compact for Adult Offender Supervision under
 255 section 54-133 shall apply to youthful offenders.

256 Sec. 8. (*Effective from passage*) The Chief Court Administrator, the
 257 Commissioner of Children and Families, the Commissioner of
 258 Correction, the Chief State's Attorney, the Chief Public Defender, the
 259 Child Advocate and the executive director of the Commission on
 260 Children, or their designees, shall form an implementation team that
 261 shall review all matters necessary to implement the increase in the age
 262 limit for purposes of jurisdiction in delinquency matters from sixteen
 263 to seventeen years of age as provided in this act. Such review shall
 264 include, but not be limited to: (1) The feasibility of hearing delinquency
 265 matters involving children sixteen years of age or older in
 266 geographical area courts and the requirements and procedures
 267 therefor; (2) the types of motor vehicle violations and offenses that
 268 should be heard in the superior court for juvenile matters; (3) the
 269 allocation of staff, facilities and services; and (4) the need for additional
 270 legislation. Not later than February 1, 2006, the implementation team
 271 shall submit a report concerning the team's findings and
 272 recommendations to the joint standing committee of the General
 273 Assembly having cognizance of matters relating to the judiciary. The
 274 report required by this section shall be submitted in accordance with
 275 section 11-4a of the general statutes."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	46b-120

Sec. 2	<i>October 1, 2005</i>	46b-121(a)
Sec. 3	<i>October 1, 2005</i>	46b-127(c)
Sec. 4	<i>October 1, 2005</i>	46b-133c(f)
Sec. 5	<i>October 1, 2005</i>	46b-133d(f)
Sec. 6	<i>October 1, 2005</i>	46b-142(a)
Sec. 7	<i>October 1, 2005</i>	54-76b
Sec. 8	<i>from passage</i>	New section